



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2012-0518]

RIN 1625-AA00

Safety Zone; Water Main Crossing; Choctawhatchee Bay; Santa Rosa Beach, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone for a portion of the Gulf Intracoastal Waterway in Choctawhatchee Bay, Santa Rosa Beach, FL. This action is necessary for the protection of persons and vessels, on navigable waters, during the construction of a subaqueous water main. Entry into or transiting in this zone, during daylight hours, will be prohibited to all vessels, mariners, and persons unless specifically authorized by the Captain of the Port Mobile or a designated representative.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2012-0518 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail: Docket Management Facility (M-30), U.S.

Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail LT Lenell J. Carson, Coast Guard Sector Mobile, Waterways Management Division; telephone (251) 441-5940 or e-mail Lenell.J.Carson@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking
GICW	Gulf Intracoastal Waterway
COTP	Captain of the Port
LLNR	Light List Number

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this proposed rulemaking (USCG-2012-0518), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number (USCG-2012-0518) in the "SEARCH" box and click "SEARCH." Click on "Submit a

Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the proposed rule based on your comments.

2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2012-0518) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a

Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

4. Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this proposed rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

B. Basis and Purpose

A 36" subaqueous water main is being constructed across the Choctawhatchee Bay to improve water system delivery. The water main will cross the GICW, a federally maintained navigable channel. Construction of the water main and the required use of turbidity silt curtains pose significant safety hazards to both vessels and mariners operating in or near the GICW. The COTP Mobile proposes to establish a temporary safety zone for a portion of GICW in Choctawhatchee Bay, Santa Rosa Beach, FL. This proposed temporary safety zone is deemed necessary to protect persons and vessels during construction of the water main across the GICW. The legal basis and authorities for this proposed rule are found in 33 U.S.C. 1231, 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively

authorize the Coast Guard to propose, establish, and define regulatory safety zones.

The COTP anticipates some impact on vessel traffic due to this proposed regulation. However, the proposed temporary safety zone is deemed necessary for the protection of life and property within the COTP Mobile zone.

C. Discussion of Proposed Rule

The Coast Guard proposes to establish a temporary safety zone for a portion of the GICW in Choctawhatchee Bay from the Highway 331 fixed bridge west to the Red Nun Buoy "26" (LLNR 31510), to include the entire width of the channel. This proposed rule will protect the safety of life and property in this area. Entry into or transiting in this zone, during daylight hours, will be prohibited to all vessels, mariners, and persons unless specifically authorized by the COTP Mobile or a designated representative. The COTP may be contacted by telephone at (251) 441-5976.

The proposed safety zone will be effective for the months of August and September 2012. The COTP Mobile anticipates that this proposed rule will be enforced during daylight hours for approximately seven (7) days sometime between August and September 2012. If the final dates are determined, dates and times will be published in the temporary final rule. The Coast Guard will issue broadcast notice to mariners and local notice to mariners of the exact dates of enforcement of the regulation.

D. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The temporary safety zone listed in this proposed rule will only restrict vessel traffic from entering or transiting a small portion of the GICW during daylight hours. The effect of this regulation will not be significant for several reasons: 1) the COTP Mobile will issue maritime advisories widely available to users of the waterway; 2) this proposed rule will only affect vessel traffic during daylight hours and that are subject to transiting the GICW due to draft restrictions; and 3) the impacts on routine navigation are expected to be minimal. Notifications to the marine community will be made through Local Notice to Mariners and Broadcast Notice to Mariners. These notifications

will allow the public to plan operations around the affected area.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. This proposed rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the affected portion of the GICW during construction of the water main. This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. This safety zone is limited in size, is of short duration and shallow draft vessel traffic may pass safely around the temporary safety zone.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this proposed rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to

assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be received without

jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children from Environmental Health Risks

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and does not create an environmental risk to

health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This proposed rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus

standards.

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves safety for the public and is not expected to result in any significant adverse environmental impact as described in NEPA. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T08-0518 to read as follows:

§ 165.T08-0518 Safety Zone; Choctawhatchee Bay; Santa Rosa Beach, FL.

(a) Location. The following area is a temporary safety zone: a portion of the Gulf Intracoastal Waterway in Choctawhatchee Bay from the Highway 331 fixed bridge west to the Red Nun Buoy "26" (LLNR 31510), to include the entire width of the channel.

(b) Effective dates. This regulation is effective from August 1, 2012 to September 30, 2012. The Coast Guard will issue broadcast notice to mariners and local notice to mariners of the exact dates of enforcement of the regulation.

(c) Regulations.

(1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Mobile or a designated representative.

(2) Persons or vessels not restricted to navigation in

the Gulf Intracoastal Waterway by draft and that can safely do so, may pass around the zone while maintaining a safe distance and transiting at slowest safe navigational speed.

(d) Informational Broadcasts. The Captain of the Port or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the planned schedule.

Dated: 8 June 2012

D. J. ROSE,
Captain, U.S. Coast Guard
Captain of the Port Mobile

[FR Doc. 2012-16788 Filed 07/09/2012 at 8:45 am; Publication
Date: 07/10/2012]